

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

<b>LYNN HARRIS,</b>	)
	)
Petitioner,	)
	)
v.	)
	)
<b>THOMAS CARROLL, Warden</b>	)
and <b>JOSEPH R. BIDEN, III, Attorney</b>	)
General for the State of Delaware	)
	)
Respondents.	)

Civ. Act. No. 06-786-\*\*\*

**MOTION FOR EXTENSION OF TIME**

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, respondents move for an extension of time in which to file an answer to the petition. In support thereof, respondents state the following:

1. The petitioner, Lynn Harris, has applied for federal habeas relief, alleging error by the state courts. D.I. 2. By the terms of the Court's order, the answer is due to be filed on March 12, 2007.

2. Counsel has been, and continues to be, diligently working on numerous cases before this Court and the state courts. However, due to the two vacancies currently in the Appeals Division, the workload for the remaining attorneys has greatly increased. Counsel is doing his best to prioritize cases by date received. Further, the Chief of the Appeals Division must review all filings prior to submission and has been unable to do so due to his own substantial caseload. Finally, counsel has a previously scheduled vacation between April 1, 2007 and April 9, 2007. In light of the situation, additional time is needed to complete the answer and have it reviewed in the ordinary course of business.

3. Under Habeas Rule 4, the Court has the discretion to give respondents an extension of time exceeding the 40-day limit in Civil Rule 81(a)(2). *Clutchette v. Rushen*, 770 F.2d 1469, 1473-74 & n.4 (9<sup>th</sup> Cir. 1985); *Kramer v. Jenkins*, 108 F.R.D. 429, 431-32 (N.D. Ill. 1985). The comment to Rule 4 expressly states that the district court has "the discretion to take into account various factors such as the respondent's workload" in determining the period of time that should be allowed to answer the petition.

4. This is respondents' first request for an extension of time in this case.

5. Respondents submit that an extension of time to and including April 13, 2007, in which to file an answer is reasonable. Respondents submit herewith a proposed order.

/s/ James T. Wakley  
Deputy Attorney General  
Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8500  
Del. Bar. ID No. 4612

DATE: March 12, 2007

**RULE 7.1.1 CERTIFICATION**

I hereby certify that I have neither sought nor obtained the consent of the petitioner, who is incarcerated and appearing *pro se*, to the subject matter of this motion.

/s/ James T. Wakley  
Deputy Attorney General  
Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8500  
Counsel for Respondents

Date: March 12, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that on March 12, 2007, I electronically filed the attached documents with the Clerk of Court using CM/ECF. I also hereby certify that on March 12, 2007, I have mailed by United States Postal Service, the same documents to the following non-registered participant:

Lynn Harris  
SBI No. 297441  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

/s/ James T. Wakley  
Deputy Attorney General  
Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8500  
Del. Bar. ID No. 4612  
james.wakley@state.de.us

Date: March 12, 2007

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and JOSEPH R. BIDEN, III, Attorney )  
General for the State of Delaware )  
Respondents. )

**ORDER**

This \_\_\_\_\_ day of \_\_\_\_\_, 2006,

WHEREAS, respondents having requested an extension of time in which to file an answer, and

WHEREAS, it appearing to the Court that the requested extension is timely made and good cause has been shown for the extension,

IT IS HEREBY ORDERED that respondents' answer shall be filed on or before April 13, 2007.

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United States District Judge